tions except Alabama, parties can contract themselves into a different period of limitations; but the court in the principal case rightly refused to hold that they had done so, since they had not clearly expressed such an intent. As the *lex fori* governs substantive law, construing the contract to mean that it should be treated as if made in Spain required that the validity of the contract be determined by Spanish law, but left matters of remedy to the *lex fori*. The fact that the *lex loci* is held to govern where a statute creates a new right to exist only a limited time is a proper application of the above rules, and not an exception. *Lamberton* v. *Grant*, 94 Me. 508, 48 Atl. 127; *Boston & M. R. R.* v. *Hurd*, 108 Fed. 116; *Miller* v. *Connor*, 177 Mo. App. 630, 160 S. W. 582. So also it is proper that title obtained by adverse possession under the Statute of Limitations of one state should not be disturbed though the law of the jurisdiction where the action is brought requires a longer period of adverse possession. *Brown* v. *Brown*, 13 Ala. 208.

CONFLICT OF LAWS — TESTAMENTARY SUCCESSION — LAW GOVERNING A REVOCATION. — The testatrix executed her will while domiciled in New Jersey. Subsequently she married a man domiciled in New York. According to the New York law in force at the time, her marriage revoked her will. But at the time of her death, while she was still domiciled in New York, the law had been changed so that marriage, for the purposes of this case, was no longer a revocation. *Held*, that the will be admitted to probate. *In re Cutler's Will*, 186 N. Y. Supp. 271.

For a discussion of the principles involved in this case, see NOTES, page 768, *supra*.

CRIMINAL LAW — DOUBLE JEOPARDY — CONVICTION UNDER STATE STATUTE AS BAR TO PROCEEDINGS UNDER THE VOLSTEAD ACT. — This is a prosecution under the National Prohibition Act. The defendant pleads in bar a conviction for the same conduct under a "bone-dry" state statute, enacted in 1915. *Held*, that the plea is good. *United States* v. *Peterson*, 268 Fed. 864 (Dist. Ct., W. D. Wash.).

The Constitution provides that no person shall be put twice in jeopardy for the same offense. U. S. CONST., Amendt. 5. But generally no plea of double jeopardy is available where the same act violates both national and state law, since the act offends two separate sovereignties. See *Cross* v. *North Carolina*, 132 U. S. 131; *Moore* v. *People of State of Illinois*, 14 How. (U. S.) 13. See 1 BISHOP, CRIMINAL LAW, 8 ed., §§ 178, 987–989. The Eighteenth Amendment grants Congress and the states concurrent power to enforce it by legislation. U. S. CONST., Amendt. 18, § 2. This means the states have ceded their previous power to regulate prohibition with a reservation of restricted power. See 34 HARV. L. REV. 317. It seems a state may still act as it sees fit, consistently with the Amendment and federal legislation. See *National Prohibition Cases*, 253 U. S. 350, 388–392. Thus, the Amendment does not invalidate a preëxisting state statute, more stringent than the federal. See 34 HARV. L. REV. 317. Such a statute, when first enacted, was an assertion of state sovereignty. It seems impossible that the Amendment can transmute this statute into legislation merely supportive of federal sovereignty. Unless it does so transmute it, the violation of this statute was an offense against a sovereign other than the one now prosecuting, and the prior conviction under it should be no bar. The refuge of one thus prosecuted a second time should be in judicial clemency rather than judicial perversion of law. See Taney, C. J., in a note in 14 Md. 149, 152. The court stresses the natural injustice of double punishment, yet inconsistently declares that a plea of prior conviction under a municipal ordinance is no bar to federal prosecution for the same conduct. The latter view is certainly correct. The ordinance is an expression of power delegated

from the state, and, as has been shown above, one act may offend both state and nation.

DOMICILE — HUSBAND AND WIFE: POSSIBILITY OF SEPARATE DOMICILE — Parties who were married in 1878 and resided in Scotland, parted by consent in 1893, the husband going to Australia and never returning to Scotland. The wife never went to Australia. In 1902, the husband went through the form of a bigamous marriage. In 1915, suit for divorce was brought by the wife in Scotland. While the suit was pending, she died. In order to determine the validity of the imposition of a tax, it was necessary to decide where the wife was domiciled. *Held*, that she was domiciled in Australia. *Lord Advocate* v. *Jaffrey*, [1921] 1 A. C. 146.

The proposition that the domicile of a married woman is that of her husband, though by no means universally approved, has hitherto been generally conceded to be a correct statement of the law. See Joseph H. Beale, "The Domicile of a Married Woman," 2 SOUTH. L. QUART. 93, 95. But recently in America, and even aside from the controversial question of domicile for purposes of divorce proceedings, courts have not been averse to qualifying, if not abandoning, the doctrine. There is some little authority to the effect that, once having acquired grounds for divorce, and the obligation to live with the husband having ended, the wife may acquire a separate domicile for any purpose. *Williamson* v. *Osenton*, 232 U. S. 619; *Shute* v. *Sargent*, 67 N. H. 305, 36 Atl. 282. And there are sporadic decisions to the effect that a voluntary separation for an extended period enables the wife to acquire a separate domicile. *Matter of Florance*, 54 Hun, 328, 7 N. Y. Supp. 578, appeal dismissed 119 N. Y. 661, 23 N. E. 1151. See *Buchholz* v. *Buchholz*, 63 Wash. 213, 115 Pac. 88. See also 28 HARV. L. REV. 196. When it is considered that in the principal case we have (1) an agreement to separate, (2) a separation for twenty-two years, and (3) undoubted cause for divorce, this House of Lords decision must be deemed a decisive and unequivocal adherence to the general rule as to the domicile of a wife, and indicates a disinclination to depart from that rule under any circumstances.

EQUITABLE SERVITUDES — INJUNCTIONS — VIOLATION OF MUTUAL BUILDING RESTRICTIONS OR ACQUIESCENCE THEREIN AS A BAR TO ENFORCEMENT. — The deeds of all lots in a tract contained restrictions against building within thirty feet of the street. Many of the owners, including the plaintiffs, built open porches which encroached upon the restricted area, but no objection was ever raised. The defendant commenced to reconstruct his house so that the main part would extend eight feet beyond the building line. The plaintiffs, including the owners of the property adjoining the defendant's lot, seek an injunction. *Held*, that the injunction be granted. *Scott* v. *Stoner*, 69 Pitts. Leg. Jour. 88 (Pa.).

When a tract of land is divided into lots subject to mutual building restrictions, violations by a considerable number of the grantees may make the purpose no longer attainable, and therefore the restrictions will be unenforceable, whether or not the complainant has participated in the violations. *Scharer* v. *Pantler*, 127 Mo. App. 433, 105 S. W. 668; *Ewertsen* v. *Gerstenberg*, 186 Ill. 344, 57 N. E. 1051. But even if the purpose is still attainable, a complainant may be barred by his laches in not objecting seasonably to the defendants' violations. *Roper* v. *Williams*, Turn. & R. 18. *Cf. Bouvier* v. *Segardi*, 112 Misc. 689, 183 N. Y. Supp. 814. Or his participation in the violations may bar any right to injunctive relief. *Loud* v. *Pendergast*, 206 Mass. 122, 92 N. E. 40. See BERRY, RESTRICTIONS ON USE OF REAL PROPERTY, § 397. Mere acquiescence in violations by others is not ground for denying a complainant relief against a subsequent violation. *Brigham* v. *Mulock Co.*, 74 N. J. Eq.